

REMARKS

Introduction

Prior to this Amendment, claims 1-50 are pending in this application, of which the previously withdrawn claims 23-50 have been cancelled without prejudice or disclaimer of the subject matter recited therein. By this Amendment, Applicants have amended claims 1, 8, 9 and 16 and added claims 51-78.

Applicants do not acquiesce in the Examiner's rejections, but instead have elected to make the above-mentioned amendments in an effort to expedite prosecution of this application leading to issuance of a patent. Reconsideration of the application as amended above and in view of the following remarks is earnestly solicited.

Prior Art Rejections: 35 U.S.C. § 102(e) – Osborne et al.

The Examiner rejected claims 1-22 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication No. 2004/0177445 to Osborne et al. (now U.S. Patent No. 6,957,461) ("Osborne").

Applicants respectfully submit that Osborne simply does not support the Examiner's rejection under § 102(e) in light of the amendments and arguments made in this response. The case law is clear on this point, "anticipation requires that a single prior art reference disclose every limitation of the patent claim." General Electric Co. v. Nintendo Co., 50 USPQ2d 1910, 1915 (Fed. Cir. 1999) (citing PPG Industries, Inc. v. Guardian Industries Corp., 37 USPQ2d 1618, 1624 (Fed. Cir. 1996)) ("to anticipate a claim, a reference must disclose every element of the challenged claims and enable one skilled in the art to make the anticipating subject matter."). More particularly, the Federal Circuit has held that the test for anticipation is "[t]hat which would literally infringe if later in time anticipates if earlier than the date of invention." Lewmar Marine, Inc. v. Barient, Inc., 827 F.2d 744, 3 USPQ2d 1776 (Fed. Cir. 1987), cert. denied, 484 U.S. 1007 (1988).

Independent Claims 1, 9 and 16

The Examiner has failed to establish a *prima facie* case of anticipation by failing to particularly point out the elements in Osborne which allegedly correspond to each of the limitations of amended claims 1, 9 and 16. In particular, apart from incorporating the present application by reference therein (Osborne col. 1, line 19), Osborne does not teach or suggest a patient support combination having, *inter alia*, at least one actuator / lift mechanism coupled to a controller area network and configured to move the intermediate frame relative to the base frame between first and second positions, as required by amended claims 1, 9 and 16.

Accordingly, the subject matter recited in the pending claims is entitled to the earliest effective filing date of the present application.

Therefore, Applicants believe that claims 1, 9 and 16 are in condition for allowance with respect to Osborne. Removal of the rejection and allowance of claims 1, 9 and 16 is respectfully requested. If the Examiner should disagree with the Applicants' arguments, the Examiner is asked to kindly point out with particularity where these limitations are expressly disclosed.

Dependent Claims 2-8, 10-15, 17-22

Claims 2-8, 10-15 and 17-22, ultimately depend from one of independent claims 1, 9 or 16. In that claims 1, 9 and 16 are believed to be allowable, as discussed above, claims 2-8, 10-15 and 17-22 are also believed to be allowable. Removal of the rejection and allowance of claims 2-8, 10-15 and 17-22 is respectfully requested.

New Claims

New claims 51-78, which correspond in part to original claims 240-254, which were cancelled by Preliminary Amendment, have been added. Support for new claims 51-78 is found, at least, in paragraphs 296-322 of the published application, U.S. 2005/0172405.

Final Remarks

Applicants respectfully submit that claims 1-22, and newly added claims 51-78, are in condition for allowance. Such allowance is respectfully requested.

If necessary, Applicants request that this Amendment be considered a request for an extension of time for a time appropriate for the response to be timely filed. Applicants request that any required fees for filing this Amendment be charged to the account of Bose McKinney & Evans LLP, Deposit Account Number 02-3223.

Respectfully submitted,

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